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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,560	07/09/2001	Jeremy A. Kenyon	41018.P013	4808

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EXAMINER

NGUYEN BA, HOANG VU A

ART UNIT PAPER NUMBER

2192

DATE MAILED: 01/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/901,560

Applicant(s)

KENYON, JEREMY A.

Examiner

Hoang-Vu A. Nguyen-Ba

Art Unit

2192

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). *request for reconsideration*
7. ☒ For purposes of appeal, the ~~proposed amendment(s)~~ *request for reconsideration* a) ☐ will not be entered, or b) ☒ will be entered ~~and an explanation of how the new or amended claims would be rejected is provided below or appended.~~

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-36.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached document.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Hoang-Vu Antony Nguyen-Ba
Primary Examiner
Art Unit: 2192

The request for reconsideration was fully considered but does not place the application in condition for allowance. The following is an examiner's response to Applicants' arguments.

In response to Applicants' argument that Tanigawa fails to teach *updating the operational collection of sub-menus of the menu* because "... , the submenu items will be of different menu item, that is, they will not be 'sub-menu items of the menu item'," the examiner respectfully notes that Applicants **only** claim *updating the collection of submenus* and do not specifically claim how the updating is done, e.g., updating the collection of submenu items in the storage area or updating the collection of the sub-menu items **being displayed**, the latter being the examiner's interpretation of the claimed updating step.

In response to Applicants' arguments that Tanigawa fails to teach *changing an operational visual representation of the menu item from a first state to a second state*, the examiner notes that step 2758 in FIG. 27 is described in the Tanigawa specification (25:28-32) as updating the display (e.g., *changing ... from a first state to a second state*) using the new data (S2758). The examiner does not interpret "highlighted" or "not highlighted" to read on first state and second state as submitted by Applicants.

In response to Applicants' argument that Tanigawa fails to teach *that new sub-menu items have been added to the operational collection of sub-menu items of the menu item*, the examiner submits that the process of displaying newly retrieved data (e.g., *new sub-menu*

items) from a storage unit, data which were not previously displayed (25:28-32) is reasonably interpreted to read on the claimed *new sub-menu items have been added*.

Accordingly, the examiner maintains that Tanigawa does anticipate the present invention as claimed in Claims 1, 14, 22, 25, 28, 31, 33 and 35.

A handwritten signature in black ink, reading "Hoangm Antony NguyenBa". The signature is fluid and cursive, with the first name "Hoangm" and last name "NguyenBa" clearly legible, and "Antony" in the middle.

ANTONY NGUYEN-BA
PRIMARY EXAMINER
December 24, 2005